



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 05.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

**C.M.A.No.2885 of 2022**

Thirumurugan

.. Appellant

**Vs.**

1. Dharani Kumar

2. The Divisional Manager

M/s. New India Assurance Co. Ltd.

No.179, 3rd floor, Jawaharlal Nehru Street,

Balaji Nagar, Pondicherry.

.. Respondents

**Prayer:** This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.08.2018 made in M.C.O.P.No.853 of 2016 on the file of Motor Accident Claims Tribunal- cum-Additional Sub Judge, Puducherry.

For Appellant : Mr.L.Ramanathan  
for Mr.T.Ananthasekar

For Respondents : Mr.C.Ramesh Babu (R2)

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## **J U D G M E N T**

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 29.08.2018 made in M.A.C.T.O.P.No.853 of 2016 on the file of the Motor Accident Claims Tribunal- cum- Additional Sub Judge, Puducherry

2.The appellant is the claimant in M.A.C.T.O.P.No.853 of 2016 on the file of the Motor Accident Claims Tribunal (FAC), Puducherry. He filed the above said claim petition, claiming a sum of Rs.16,25,000/- as compensation on account of the injuries sustained by him in an accident that took place on 15.06.2016.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the two wheeler bearing No.PY-05-5540, belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.2,81,000/- as compensation to the appellant/claimant.



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4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that the appellant is an agriculturist and due to the aforesaid accident, he sustained head injury and fracture in the right leg and therefore, it became difficult for him to carry out his work as before and hence the Tribunal ought to have awarded compensation towards Attender Charges and that apart from considering the injuries sustained, ought to have awarded compensation towards Future Medical Expenses. He further submitted that the amount of compensation awarded under other heads is also very low and hence prayed for enhancement of compensation.

6. The learned counsel appearing for the 2<sup>nd</sup> respondent-Insurance Company submitted that the Claims Tribunal after considering oral and documentary evidence, has rightly awarded the compensation under various heads and therefore the same does not warrant any interference.



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7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2<sup>nd</sup> respondent-Insurance company and perused the entire materials on record.

8. The accident is of the year 2016. Considering the age and nature of injuries sustained by the claimant, this Court deems it fit to award a sum of Rs.20,000/- towards Attendant Charges and another sum of Rs.20,000/- towards Future Medical Expenses and accordingly a sum of **Rs.20,000/-** is awarded under the head ***Attendant Charges*** and Rs.20,000/- under the head ***Future Medical Expenses***.

9. The amounts awarded by the Tribunal under other heads are just and reasonable and, in fact, though the claimant contends that the compensation awarded under other heads are meagre, however, a perusal of the compensation awarded reveals that the Tribunal has rightly awarded the compensation under the other heads and, accordingly, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



| S. No | Description              | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|-------|--------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.    | Pain and Sufferings      | 40,000/-                        | 40,000/-                          | Confirmed                              |
| 2.    | Medical Expenses         | 1,16,000/-                      | 1,16,000/-                        | Confirmed                              |
| 3.    | Loss of Income           | 50,000/-                        | 50,000/-                          | Confirmed                              |
| 4.    | Rich and nutritious food | 25,000/-                        | 25,000/-                          | Confirmed                              |
| 5.    | Transport Expenses       | 10,000/-                        | 10,000/-                          | Confirmed                              |
| 6.    | Permanent disability     | 30,000/-                        | 30,000/-                          | Confirmed                              |
| 7.    | Attender charges         | 20,000/-                        | 20,000/-                          | Granted                                |
| 8.    | Future Medical Expenses  | 20,000/-                        | 20,000/-                          | Granted                                |
|       | <b>Total</b>             | <b>Rs.2,81,000/-</b>            | <b>Rs.3,21,000/-</b>              | <b>Enhanced by Rs.40,000/-</b>         |

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,81,000/- is hereby enhanced to Rs.3,21,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The Respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of *six weeks* from the date of receipt of a copy of this judgment to the credit of M.A.C.T.O.P.No.853 of 2016 on the file of the



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Motor Accident Claims Tribunal, Puducherry. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks**. The claimant is directed to pay necessary Court fee, if any on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

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Index : Yes / No  
Internet : Yes / No



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To

1. The Divisional Manager  
M/s. New India Assurance Co. Ltd.  
No.179, 3rd floor, Jawaharlal Nehru Street,  
Balaji Nagar, Pondicherry.
2. The Motor Accident Claims Tribunal (FAC),  
Puducherry.
3. The Section Officer,  
VR Section,  
High Court,  
Madras.



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**KRISHNAN RAMASAMY, J.**

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